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## INTRODUCTORY REMARKS.

IF an intolerant spirit towards those who differ with us in sentiment and in substantials is universally condemned, a similar spirit towards those who agree with us in these respects, and differ with us only as to outward form and mere instrumentalities, would seem to deserve a still deeper condemnation. And yet it is just here that the spirit is most rancorous. It is just here that it seems to take a pleasure in exhibiting itself as offensively as possible. The same man who boasts a toleration wide enough to embrace every diversity of creed and opinion, is ready to lead to the stake those who agree with him as to what ought to be done, but do *not* agree with him as to the manner of doing it; and the surest way to affront him is not to oppose the system or measure which lies nearest his heart, but to advance it — in any other way than that which he approves. Opposition he does not object to, for it adds increased lustre to his triumph; coöperation, except in the manner he has himself prescribed, he detests, for it robs him of laurels he had intended should adorn his own brow only, and shows him that there is something of virtue, something of wisdom, something of knowledge, outside of that little cell at home where he would willingly have men suppose this wealth had all been centred. Upon the same principle is it that dire alarm would seize him upon the slightest apprehension that the evil against which he is contending was about to disappear. Complete success to his enterprise is utter ruin to himself. Should, for instance, an instantaneous remedy be found for the evil of slavery, there are not a few whose craft would be injured much more than the slaveholder's; and should intemperance cease from the earth, many would take precedence of the rumseller in the procession of mourners.

These remarks are not introduced here without an object. The author wishes thus early, not merely for his own justification, but for a more comprehensive purpose, to protest against a logic more than ever fashionable in these days, which, to be sure, is not liable to the charge of confounding all distinctions, but which knows and makes one distinction only—do you pull by my rope, or another; a logic which makes the advocate of colonization, rather than immediate emancipation, a pro-slavery man more hateful than the slaveholder himself; which sinks the advocate of temperance far below the “common seller,” unless he happen to be of the “Maine Law” faction. Let it be once settled that this kind of logic is to prevail—that is one step towards despotism; not the despotism of an individual, but of a party, which is far worse; and then let it be settled that this kind of logic is to be crammed down our throats by secret societies formed for the purpose—that is the other step. It only need be added, that those individuals who count all men “rummies” who are not in favor of the “Maine Law” had better look to it, lest, by the failure of the law, which desires to banish all other instrumentalities, thus leaving the cause of temperance without other support, they lay themselves open to the same charge, and much more justly.

The law for the suppression of intemperance now known, the world over, as the “Maine Law,” indicates confessedly one of the most important measures ever undertaken by a legislative body in this or any other State. The very magnitude of the evil whose cure it seeks to effect gives to it a consequence not easily over-estimated. Having had its origin in the State which has given to it its name, it has, with unimportant modifications, been extensively adopted by other State legislatures, awakening wherever it has gone a most lively interest, in many instances creating intense excitement, and encountering everywhere a most determined opposition. But, notwithstanding the acknowledged importance of the act, and notwithstanding the wide contrariety of sentiment with which it has always been regarded, its discussion thus far has been confined almost entirely to the newspapers of the day; there having been no attempt, so far as the writer is informed, to bring it before the public tribunal in any



more formal, continuous, and comprehensive manner—an omission which, in these days of book-making, would seem not a little surprising, were we not in possession of facts which explain the anomaly. To supply fully this omission by a discussion of *all* the points involved in the question, would require a formidable volume, quite beyond the ambition, as it is also beyond the design, of the author of this tract. The title-page indicates, to a considerable extent, what that design is. It is to inquire, as far as may be, into the law in question,—to pry more or less inquisitively into its earlier and later history,—to ascertain what it proposes to accomplish, what success has thus far attended it, and how far a similar, or greater, or less success, may be counted upon in future,—in a word, to test its claims, so far as our time, and space, and ability, will allow.

That the question is in itself worthy of, and that an absolutely thorough investigation of it demands, these three conditions, in a much larger measure than he who now undertakes the task possesses them, none know better than himself; so that, did there seem to be a reasonable ground for hope that the work would ere long find some other exhibitor more bountifully gifted in these particulars, the author of the following pages would have willingly remained silent. There seems, however, to be very small ground for any such hope. So industriously has been circulated the idea that opposition to the Maine Law is opposition to temperance,—so deeply has the idea become rooted in the minds of a vast multitude, and so do many excellent men in the community, who at heart disapprove of, or at least distrust this law, reluctant to exhibit their doubts or their disapproval, lest, by a misconstruction very naturally fallen into, they should prove prejudicial to the cause of temperance,—and so do other kindred considerations operate as a sort of gag law upon this subject, that there seems but little likelihood that the omission above alluded to will be, for the present, at least, supplied. The motive for this shyness and timidity is doubtless a pure motive; but whether any cause is more likely to triumph in the end by smothering, for the sake of apparent policy, the inmost convictions of the heart, we leave for those who adopt such a course themselves to determine. The originators and friends of the measure never tire

of reiterating the sentiment that opposition to the law is identical with opposition to the cause of temperance at home, and is especially unfavorable to its advancement in the other States. Here, we are told, the measure originated. Here it has been longest tried. Here it has been most deliberately and carefully considered, and here its capacity to do what it promises to do has been most severely tested. If we, who know it best, reject it, or exhibit even a lukewarmness in its support, the other States will take counsel of our apathy; and if, on the other hand, we extol it as beyond all praise, and remain mum as to any weaknesses pertaining to it, there is the benefit of our example to be conferred upon our neighbors, who, it is contended, will be encouraged to take the law upon trust, seeing that it has wrought such wondrous results for humanity here at home. Now, all this, and much more we hear to the same purpose, is a plausible kind of reasoning, and most unobjectionable too, on the supposition that the law is what it is claimed to be by its friends. But that is the identical point in controversy. If the fact were first established that the law was certain to effect all the magnificent results attributed to it, or even the half of them, the writer would unhesitatingly become a docile disciple in the mum school himself; and he might go so far as to acknowledge himself a convert to the doctrine, that a city of twenty-five thousand inhabitants might put up with an individual for mayor, even though for the specific duties of his office he should be to some extent incompetent, provided that, owing to certain of his antecedents, his election to the office would give to the cause of temperance that kind of aid above indicated. On the grounds of a comprehensive philanthropy, such a city might very properly sacrifice to some extent her individual interests, for the sake of the greater general good such a sacrifice might be the means of securing.

But suppose the law, after all, prove a failure? Suppose those who by our example and our encouragement have been betrayed into its adoption, find it, upon trial, only a broken reed, to pierce those who lean upon it? Where lies the responsibility? Clearly at our door; so that the same reasoning which compels the friends of the measure thus to recommend it, on the other hand rests

no less imperatively upon those who believe it will indeed prove a broken reed. The obligation resting upon us to warn others against leaning upon a staff whose rottenness we believe will be the means of plunging them into a ditch, is not less than that which makes it our duty to recommend a sound and reliable staff to those who stand in need of it.

A few words as to the manner in which the argument will be conducted. The question it has to do with is not one of the past. It is not an effete, withered, thumbed and threadbare dogma of the schools, having an existence entirely above and dissociated from all that really concerns humanity. It is not a dead limb of a tree which is also dead. It is emphatically a living question. It is of this present generation, of this very day and hour, dwelling close at the side, nay, in the very heart, of every man. To always preserve to the argument of such a question a purely abstract form — to comply with the rigid, methodical requisitions of an arbitrary system of logic — would be as difficult; as it would be injurious to the argument itself, which, if it be not in part made up of, must at least borrow its illustrations from, facts and circumstances of recent occurrence, fresh in the minds of all. There will thus unavoidably occur what, without their being so intended, will have the appearance of unprovoked personalities, which can hardly fail to give more or less offence; and, to escape the necessity of constantly recurring disclaimers throughout the ensuing pages, the writer wishes to say, once for all, that all reference to individuals, directly or indirectly, will be studiously avoided; so far as is possible without interfering too greatly with a fair exposition of the question; and still further to say, that general expressions will often occur, which are not intended to have a general application. That a majority, and a very large majority, of the advocates of the Maine Law, are actuated not only by innocent, but by highly honorable and praiseworthy motives, is not for a moment questioned; and the author desires thus early to rob of its power any and every sentence which may inadvertently escape him, that may bear a different construction. He well foresees that, by *any* execution of the task he has undertaken, however strictly conformed to the rules of the severest etiquette, he

will incur from certain quarters not a little odium. Small heed will he give to that; but he would take great heed how he allows a mere difference of opinion to betray him into unjust aspersions or hurtful insinuations against others who do not agree with him. He claims a right to think for himself in this, as in all other matters. He freely concedes the same right to others. With a deep and unalterable conviction that the measure in question will prove in the main abortive, and that its evil consequences will not stop here, but will offer a serious obstacle in the way of the temperance reformation, he would be recreant to himself, if not false to others, should he longer hold his peace.

NOT A "MAINE-LAW" MAN, NOR YET A "RUMMY."

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## P A R T I.

WE live in an age of wonderful activity—of a certain description; in an age of wonderful progress—in a certain direction. We are dazzled by brilliant discoveries in physical science—we are bewildered by their rapid succession. In this field civilization strides ever on in seven-leagued boots; and, as it is man who conducts the glorious march, we are ready to bow down to man, to worship him as a God, and to ascribe to him powers which belong to God only. Long familiar with his illustrious achievements in the natural universe, we thoughtlessly claim from him, and are disappointed if he do not perform, similar prodigies in the moral and spiritual world. We forget his sad bungling and his manifold blunders in the past; and if we are reminded that only a few years have elapsed since Sir Matthew Hale burnt witches whom the multitude dragged in blind zeal before his tribunal, we excuse all that, under the belief that his descendants have grown wiser, and will be guilty of such absurdities no more.

And is it indeed so? Is man in this nineteenth century a very different thing from man in the ninth or the seventeenth century?

Of machines without himself, he has invented and constructed an innumerable quantity, and they work his bidding well. But that inner mechanism of his own, which another, and not himself, constructed — that handiwork of the Almighty — that exceeding curious piece of workmanship, the human soul — does he understand *that* any better to-day than he did before printing was discovered? Can he tell any better now than then what are its necessities; and, having told, can he supply these necessities? Is he any better guarded against delusions, heresies, errors of all sorts? If so, whence come Mormonism, Millerism, Mesmerism, Spiritualism, Socialism, Fourierism, Bloomerism, and other kindred fallacies? Is there a whit less material in the world for the designing demagogue, the pretentious quack, the upstart preacher of novelties, to work with and upon, now, than there was then? Let either of these but cast his net, on *either* side of the ship, and verily he shall not be able to draw it for the multitude of fishes. Eighteen hundred years ago, Pilate's question was, what is truth; and, should he revisit the earth to-day, he might with equal reason ask the same question again; for, in the whole of this long period, scarce a single new ray of light has been secured to the world.

If, then, the history of the past teaches anything, it teaches this: that widely different laws have been given to the two departments of physical and moral science — that the conditions of progress which belong to them respectively are totally unlike, and that any analogy sought to be established between them will lead to error and disappointed hopes. As a beautiful temple rises under the hand of the builder before our eyes, now a graceful pillar mounting upon its appointed pedestal, now the chiselled stone taking its allotted position in the growing wall, nothing wanting, nothing redundant, so, in this department of physical science, every newly-discovered fact, every lately-discovered analogy, as if under the potent spell of some weird magician, falls into its own appropriate spot, the beautiful structure growing ever, on, on, on, towards its harmonious completion. But, turning our eyes in the other direction of moral science, what do we behold? No lately-arrived chiselled column, of fair proportions, bright, and fresh, and sparkling, from the living quarry;

no square stone, swung aloft in air, waiting but a moment ere it descends to its appointed resting-place; but a heaped, confused assemblage of shapeless, formless, fire-riven, fire-blackened fragments, with the dust and grime and smoke of centuries upon them, each and all exhibiting many a ghastly wound from the rude hammers they have from time to time encountered; over and among which undistinguished, undestined fragments, with unsteady foot and uncertain gaze wander the bewildered operatives, without a leader, seeking vainly to extricate from the jumbled, oft-turned mass the stone which is next wanted. Who can wonder that, under such auspices, the foundation of the building is not yet laid?

Now, is there not reason to believe that it is in overlooking the distinction between these two departments, and in not sufficiently considering the widely-different laws which have been given to them, that many of the attempted reforms of the day have their origin? By the extraordinary speed attained in the one, an impatience is begotten of that slow and toilsome progress which ever characterizes the other; and we look for extravagant results within man, commensurate with those which are constantly taking place without and around him. Restive under that mysterious, incomprehensible economy which permits the existence of great social and moral evils, stirred by an ever-active inward rebellion against what to mere human vision seems as unnecessary as it seems cruel, it is hardly cause of wonder that man should seek to find an escape from this restiveness, a cure for this rebellious spirit, by discovering and applying an infallible and instantaneous antidote for that condition of things in which these feelings, so fatal to his peace, have their origin.

But, whether or not the explanation thus hinted be in part the true one, the fact itself does not admit of denial, that in these days great and sudden social, moral, and political reformations are demanded, and extensive improvements looked for, on a liberal scale, quite beyond anything which a just appreciation of these subjects at all warrants us in expecting. And the bearing these remarks are intended to have upon the subject-matter of discussion can hardly fail to be at once perceived by every one. Holding a most con-

spicuous place among the evils which afflict, and which have long afflicted society, stands intemperance,—distinguished, too, not more by its enormity, than by the immense amount of effort which has been expended for its cure. So beyond computation destructive and ruinous are its consequences, and so have the various expedients from time to time resorted to against it proved either entire or partial failures, that we need not be surprised if, under the pressure above alluded to, without any less justifiable motive, impracticable and inadequate schemes be devised for its overthrow; nor need we any more be surprised if men clutch eagerly at the proffered specific, even though its introduction lack that famous flourish of trumpets, and those loud-sounding, extravagant boastings, with which these somewhat over-confident doctors too often herald forth their precious secret. That an immense majority of those who have given their adherence to the Maine Law have done so to a very considerable extent under influences thus explained, cannot be doubted. And that the originators of the measure, with whom lies the chief responsibility, were more or less under the same influences in the conception and early development of the scheme, seems equally probable; and if, as the stream has flowed onward away from the fountain-head, it has become polluted by the intermingling of impurer waters, it becomes us rather to deplore a weakness incident to humanity, rather than to hasten, possibly upon inconclusive evidence, to condemn another for delinquencies and positive wrongdoing, from which it is hardly possible that our own skirts have always been free.

But, passing from individuals, who have but a secondary connection with this question, I shall now proceed to the examination already proposed. And, to do this intelligently, it seems necessary first to inquire what this measure, denominated the "Maine Law," promises to do; for unless this be ascertained, we might be led out of our way in order to attack it for not doing something it never agreed to do. We wish, then, to learn, as accurately as may be, the identical thing it proposes to effect, and the extent to which it proposes to effect it. And inasmuch as a knowledge of its history, and its operations in the past, will throw very considerable light on

that point, and will be found, indeed, quite useful along the entire road we design to travel, I shall tarry here a moment to take this historical survey, before proceeding further.

Four years ago, the Legislature of the State of Maine enacted a new law for the suppression of intemperance, so greatly exceeding in the severity of its penalties, and in its stringent provisions generally, any law for a similar purpose that had preceded it, that it at once attracted universal attention at home and abroad, and very soon came to be known everywhere as "*The Maine Law.*" For convenience' sake, the same appellation has continued to be bestowed upon it through all the changes which have successively happened to it; though it would seem somewhat at the expense of truth, since, strictly interpreted, it conveys the idea that the single statute first enacted has remained intact until the present time; whereas that statute soon gave place to a second, which in its turn yielded to a third—the now existing law on the subject. Its passage was in itself the occasion of very considerable excitement,—soon, however, greatly increased by the various unusual, and, as was thought by a large portion of the community, unjustifiable expedients made use of to give to the law an authority, which, left to stand upon its own bottom, it seemed little likely to secure. Secret societies, or clubs, were at once organized for its support, whose active and zealous efforts in its behalf—neither required at their hands nor excused by any official responsibility resting upon them, but rendered voluntarily—were peculiarly offensive to all outsiders, who were not partakers with them in these proceedings. Other machinery, too, totally unrecognized by any State authority, was soon put in motion. In some instances men were hired to act the part of spies and informers; and in others drinking shops were visited, and an infraction of the law procured, for the specific purpose of making a culprit, and procuring testimony against the individual thus ensnared and betrayed. In short—for I wish to condense rather than amplify—the measures that were contrived, and the principles that were avowed, were just such as a blind fanaticism, goaded on by and made the tool of private interests and personal ambition, always begets; and while there was much in the law itself to render it dis-



tasteful to the community, it was rapidly rendered still more so by the kind of aid which was invoked to uphold it.

The discussion, too, of the question, as conducted by the friends of the measure, assumed a most offensive tone. Despotic as seemed the law, the character and style of the reasoning by which it was attempted to be supported was still more so. So clamorously and persistently was the doctrine preached that opposition to the law was opposition to temperance, and so difficult did it very soon become to dissent from those who had thus monopolized into their hands the entire defence of the cause, without giving color to this doctrine, that very many, rather than have the appearance even of countenancing the rum-seller, kept back their real sentiments. Thus not a few were either dragooned into the service outright, or were made passively to submit to what they at heart disapproved, but did not feel themselves at liberty to openly oppose. Others, who occupied a half-way position,— who looked first at the evil to be cured, and then at the doubtful remedy, and hesitated how to choose between them,— were at length prevailed upon to yield their assent when the question was presented in a milder form ; and they were pressed to try at least the experiment, forgetting, perhaps, that those who commence by this half-way compliance, from pride of opinion and a regard for what they term consistency, generally end by giving a full and unconditional support. In this instance the trying of one experiment led to a second, and that to a third ; and, when the list is exhausted, there will probably be few of the experimenters who have not become converts in full communion.

But while the measure was thus tolerated by some, and received the hesitating support of others, there was to be found a third class, far outnumbering both of these, who, from the first, gave to it a hearty approval. In the extent of the evil against which it was directed these individuals found not the measure only, but the proof of its value. Was intemperance a great curse? The Maine Law was a great blessing. Venture to hint a doubt as to its efficacy, and these illustrious logicians entertain you with a glowing account of rum's doings since the days of Noah. Suggest that it is in advance of public sentiment, and can have at best but a temporary existence ;

they break forth into an eloquent and pathetic harangue about beggared children, weeping widows, and desolate firesides. Attempt to demonstrate that the whole scheme rests upon mistaken views and unsound principles, and they let loose upon you a flood of statistics, with a complacency truly refreshing to contemplate. Assert in direct terms that for *any* reason the law must prove a failure,—go a step further, and avow your opposition to it,—hands are raised in holy horror at your atrocious inhumanity, and you are set down incontinently as “one of the wicked;”—a kind of reasoning, which, if it be deficient in some points, certainly possesses two advantages in an eminent degree: it is unanswerable, and withal very convenient; and he who is expert in this style of argument may dispense with every other, for by it he can prove anything.

Meanwhile, the authors and special guardians of the law made all haste to set forth its beneficent influence and admirable working, and well improved the time in extolling its manifold virtues. Neighboring States, who had been diddled by these extravagant assertions, and had been induced, by efforts directed to that end, to enact similar laws, were now made use of to commend to our increased favor the identical law they only yesterday borrowed from us; thus having hardly received the benefit of our example, when they were called upon to pay for it in the same coin. Having had an axe furnished to them gratis, it is only a fit return that they should lend their aid to grind ours to a finer edge.

By the aid, then, of these various props and appliances above described, and many others of a similar kind; by a sanguine hopefulness on the part of a very numerous class, which furnished arguments for the law where there were none before; and last, though by no means least, by the indefatigable zeal of its prime movers and special patrons, it succeeded at last in getting a foothold.

And now another eye is fixed upon it, surveying it as yet, however, only from a distance. Indeed, it had hardly raised its head above the water, when this eye began to look curiously and meditatively towards it. But your politician is a wary animal, as well as a watchful. He likes to know, as nearly as possible, what this new thing, or, for that matter, any new thing, is, before he puts his foot

in it. He remembers to have read, even when a boy, of a venturesome mariner who mistook a floating sea-monster for something more substantial and more permanent, and who, having discovered his mistake by kindling a fire on the monster's back, was compelled to make a precipitate retreat; and he remembers, too, how often his political contemporaries, if not himself as well, have been betrayed into similar, but less fabulous blunders. He will, therefore, wait a little, to be assured whether this be a veritable island, thrown up in those turbid waters he loves so well to navigate, by some volcanic or other subterranean fires, or whether it be only a slippery-backed whale, which, instead of affording him a safe footing, will be very likely to tip him and his crew overboard. He, therefore, leaves the distant standpoint from which he first surveyed the thing, with a slow and commendable caution, armed with discretion, and revolving in his mind those prudential maxims of which he has vast store in possession. He gathers courage, however, as he proceeds, and he at last gets near enough to the thing to poke it with a stick. For a moment he is ready to imagine that it settles a trifle, or manifests an inclination to slide away a little. But, presently, emboldened as the experiment advances, he gives it another and a harder thrust, and he finds that his first fears were altogether unnecessary; for, instead of resenting these proceedings, or exhibiting anything like animosity, as he had conjectured it might possibly do, it rather invites and encourages his approach, until, the nether extremity of the long pole he holds in his hand being held fast in friendly grasp by the mud, of which the outer edge, at least, of the island is composed, he draws himself safely to the shore, and takes possession. He, by this time, knows it to be a veritable island,— a true *terra firma*, which will remain above water long enough, at all events, to allow a profitable speculation to be made out of it. He now straightway puts it down upon his chart, that he may always be assured of its bearings; for, though he well perceives it has none of that kind of life in it which will cause it to wince or flounce about to the jeopardy of its newly-arrived occupant, on account of any fires he may kindle upon its back, or other liberties he may see fit to take, he still understands that it requires to be managed gently, and with that prudence which is so characteristic of

not himself merely, but of political adventurers generally. Having thus got it down upon his chart, having ascertained its latitude and longitude, and examined the soundings in its neighborhood, he is for the time satisfied. He thinks it not expedient, just at present, to erect a flag upon it, or take other steps in token of his discovery and possession; and his title to occupancy he will not openly assert just yet. It occurs to him that there may be a prior claim, and he thinks it better to secure a half-interest by "arrangements," rather than lose the whole by an indiscreet haste and an inordinate greed. And the sequel shows that he has not taken lessons in the school of prudence for nothing. The prior claim turns up, just as he expected; and, just as he expected, the "arrangements" are effected without difficulty, and quite to his liking; for the prospect is that, whatever the island may be worth, or whatever fruits it may yield, by far the greater portion will fall to his share.

But, not to pursue the figure further, the fact it exhibits is notorious to everybody. Conscious of its own infirmities,—made sensible that the public mind, facile as it is, and accommodating as it was evidently disposed to be, would not always tolerate those outside helps, above described, upon which it had hitherto mainly depended,—the law, instead of repelling the political advances just indicated, opened its arms wide to receive them, regarding them as a most timely godsend to keep it for a while out of the grave, towards whose crumbling edge it felt itself to be fast tending.

Now, that this whole exhibition of the question will be sturdily denied by those whose bantling the law is, and who have ever held the office of self-appointed godfather towards it, is only matter of course; but, unfortunately for them, the denial will avail them little. That the connection above alluded to has itself been formed, is matter of history; and, if the measure, by reason of its intrinsic weakness, did not stand in need of this support, its managers have made themselves parties to a venal and disreputable transaction, without even the palliating circumstance that a stern necessity drove them into it. It is, at best, a question between gratuitous, voluntary turpitude, and a turpitude which might be charged to a severe temptation. But we cannot, consistently with truth, allow these managers of the measure

thus to deprive themselves of this extenuating circumstance. The weakness we have charged upon it *did* exist, and none are more thoroughly convinced of the fact than the individuals who availed themselves of this fortuitous aid. And that this is so will be to some extent made manifest by pursuing the present historical inquiry a step or two further. Notwithstanding the boastful claims so constantly and vehemently reiterated as to the satisfactory working of the law, it soon became evident, to all who troubled themselves to look into the matter, that in its original form it would not answer. Accordingly, to get something that would answer, a substitute was formed, which, after two years' trial of the first law, became the second enactment on the subject; and, not to weary the reader with multitudinous details, this, also, in its turn, proved inadequate, when the third and present existing statute was passed — this wonderful measure having thus changed its substance, not once in seven years, as we are told is true of the human body, but three times in four years: and yet, through the whole, continuing to be designated as, and claiming to be, "*the Maine law*"! Now, if this changeful and frequent legislation, this botching and tinkering, this endless stopping of leaks, this constant hauling up for repairs and alterations, does not indicate imperfection and inadequacy in the model itself, and a want of confidence in those who contrived it, we know not what may fairly be considered such an indication; and if an alliance with political trucksters, and venal, ambitious demagogues, which, if we admit it was not courted, was at least suffered, does not point the same way, then we have read the finger-board upside down. Perhaps, however, it ought not to create surprise that those who first staked so much upon a statute of mere human enactment, and who counted upon such huge results from an ordinance emanating from fallible men, should afterwards be found seeking aid from the same men, in another capacity than that of legislators, to bolster up an act, to the perfecting of which, while acting in the capacity of legislators, they had proved so utterly unequal.

And here we conclude the historical survey of this question, which a few pages back we proposed to take. That it might easily have been swelled far beyond the narrow limits within which we have con-

fined it, and that, in strict compliance with truth, it might have been made to assume a far more offensive shape, few, who are at all conversant with the facts in the case, will for a moment deny. But to unnecessarily wound the feelings of any one, or to add fuel to those fires of discord of which this measure has already been the occasion, has been no part of my object. Nor do I any more lay particular stress upon this exhibition I have attempted for any supposed argument it affords prejudicial to the act itself. I am perfectly willing to ignore everything in its past development that reflects, or seems to reflect, discredit upon it, or that tends to impair its authority. I think there are more legitimate and satisfactory grounds, upon which to test this whole matter, than anything which the experience we have had of it has been able to furnish; and I have given the above outline, not for anything it contains in itself, but for the light which it seems calculated to incidentally shed upon that exhibition of the question I now propose to attempt. Had the measure been crowned with a success up to the present period far beyond what its most sanguine supporters ever imagined, my objections to it would not be essentially lessened. Had its failure been more complete than it has been, my objections to it would not be materially strengthened.

And we are now prepared to inquire, as was proposed, What is the exact thing this law promises to do? To accomplish what, and how much, does it stand pledged? Is it a something auxiliary to something else,—a something which allows something else to be auxiliary to it,—or is it, taking its own account of itself, a something which renders all other somethings a mere worthless overplus, a mere superfluous nothing? Considered in the bearing it has upon the discussion in hand, this is a very important point, which cannot be too clearly settled in the outset. An instrumentality which claims only to be subsidiary to another instrumentality may evidently be tolerated, nay, more, encouraged, even if it be confessedly imperfect, since what it fails to accomplish is only a negative offence, in the character of a mere omission, and nothing more, and is not a ground for any positive charge against it; and the same is true, though to a less extent, of an instrumentality, which, claiming to be the chief agent, still allows itself to receive aid from others; whereas, an

instrumentality which claims to do all that in the nature of the case can be done, is chargeable with all that remains undone, so far as its own exclusive spirit and practice have contributed towards such an omission. And still further, if in any given case the measure to be discussed claims, I will not say to be perfect, but to possess the capacity to do all that in the nature of the case can be done, and rejects accordingly all other aid as mere surplusage, then the requirements of a successful *argument* against it are fully met, if I show that it is *not* thus capable, even if I fail to do more, and show that the measure is liable to those deeper objections which go to prove its absolute worthlessness, and its inutility altogether. I shall attempt, however, to make the reader agree with me in the belief that the greater of the above propositions is true, as well as the less.

A single word or two as to the degree of success that has already attended this measure, and I proceed to my main design.

And why, it may be asked, only a single word or two on this point?

The question is a fair one, and I reply: first, because whatever might be said would evidently amount to little more than the mere testimony of a single individual on a subject about which no two persons do or can fully agree; and secondly, because the argument presented in the following pages, unless it be altogether an unsound one, renders any very minute inquiry on this point unnecessary. Whether the results accomplished thus far by this "Maine Law" are to be measured by the estimate formed of them by its friends, or its enemies; or whether, as is most likely, the truth is to be found somewhere between the two, is of small consequence. That less liquor is sold publicly than was formerly the case, is doubtless true. That more is sold privately, is equally true; and that much is *drank* privately we are compelled to believe, when we are told that even a "Maine Law" temperance lecturer has not scorned to arm himself with a brandy-flask, from which to imbibe a glowing eloquence in behalf of his favorite measure.

Perhaps, under the circumstances, there is no more reliable and satisfactory evidence to be had upon this point, than that furnished

to our hands by the friends of the "Law" themselves. *Their* admission of its inefficiency in the past we have in a two-fold shape : first, in their bolstering up the law by all manner of extra-judicial aids and appliances; and then, in their seeking a more carefully-prepared enactment, protected by more stringent provisions. To draw any inference from its working *in favor* of a law which changes itself every successive year, would be quite inadmissible; while any argument to be found against it, in its defective operation, need scarcely be pressed, so long as there exist other and more substantial grounds of objection. Even were the difficulty of proof, as to its success thus far, removed, and were there no discrepancy of testimony on the subject, the past would furnish neither any guarantee for the future, nor any data upon which to found an opinion of its permanent value. The propriety of these remarks will, however, be more fully developed in the subsequent examination, to which I now invite the reader's attention.

Having thus disposed of these preliminary points, I come now to consider the main question. This will properly be discussed under two divisions: one having to do with general, abstract principles, friendly or unfriendly to the measure, as the case may be; the other confining itself to a more practical view, and attempting to analyze and determine, with accuracy, the *working* capacities of the law under consideration. And inasmuch as an appeal founded upon any weaknesses which may be disclosed as belonging to the law, in this latter particular, will be more effective with the great majority, if not, indeed, with all, than anything we can hope to glean from that other field, where, from the very nature of the materials to be dealt with, demonstrative certainty is not to be anticipated, and where, from the greater latitude of inquiry, a greater diversity of opinion may fairly be expected, for this reason I shall leave this last-named portion of the argument to be last considered, and shall first ask the reader's attention to some remarks concerning the *practical* operation of the law in question. I doubt not it is precisely here that the battle is to be fought—that precisely here imperfections will be found belonging to the measure, which will be decisive of its ultimate fate. These lie to a considerable extent upon the surface. They have at



one time or another been the subject of discussion ; and, if I should now appear to some to labor this point unnecessarily, I beg leave to remind such that an incredulity capable of resisting a proposition so apparently self-evident is to be met and overcome only by the most persevering effort, and oft-repeated blows. If there be eyes to which the *natural* light that surrounds this subject has failed to reveal it clearly, we are only warned how great must be any artificial light that can hope to supply the deficiency.

Will, then, the law *work*? Will it go on to discharge those duties and offices that are claimed for it? Is it equal to this task? Will it work always, and under all circumstances? A very large majority of the community would rejoice with exceeding joy to have intemperance suppressed. Will this law suppress it? If not, *why* not? These are evidently the main points in the question; and if we can once settle them to our satisfaction, any difference of opinion likely to arise from a more abstract view of the matter will be easily disposed of.

And as this is a penal statute, the first inquiry that arises is this: Upon what do the *working* capacities of penal statutes depend *generally*, or in *other* cases? What is it that makes them fruit-bearing, and not barren?

To this general inquiry, I make this general reply. Under a government purely despotic, mere force will do this. In the absence of that, and under a government like our own, a sufficient preponderance of public sentiment in favor of the law will do the same; and where this last does not exist in a sufficient degree, an extraordinary personal and individual energy, or some other similar *outside* instrumentality, may for a time supply the deficiency. With that one of these things first named we have no concern in this discussion, but are left to rely upon one or both of the two last. To stop to offer any proof that there is nothing beyond this from which a penal statute derives any authority, would be waste of time and labor. A law, as such, evidently is endowed with no magic power to prevent the doing, or to cause the doing, of anything.

I have been careful to say a *sufficient* preponderance of public sentiment, because this is found to be necessary in very different

degrees, in different cases, and under different circumstances. If one half of the community are agreed as to the desirableness of a measure, about which the other half are only indifferent, so that there is no opposition to be overcome, a unanimity thus only negatively imperfect may suffice to accomplish the desired end. So, too, a bare majority may prove equal to the introducing, and afterwards sustaining, of a measure which rests upon palpable, undeniable principles of justice and sound reason, and which have been long established and universally received, even against a large minority. But just so far as the principles upon which the measure rests are still in dispute and unsettled, just so far as they partake of an uncertainty which renders them incapable of demonstrative proof, and just so far as they are repulsive and obnoxious to a portion of the community, just so far does it become necessary that the unanimity in favor of the measure should be increased, in order to calculate upon a permanent and final success; so that we may conceive of a case where these three attendants are found in so great a degree, that a very small minority may interpose a decisive obstacle in the way of the final triumph of the measure in hand. In other words, the preponderance of public sentiment already insisted upon, in order to be successful, must evidently be more or less decided, both numerically and as to its inner force and vitality, according as it has to do with principles less or more settled *already* — less or more capable of *being* definitely settled, and more or less obnoxious to the opposition.

What, then, is a difficulty, or, to speak more correctly, what is the grand and decisive difficulty, in the way of the *practical working* of this law?

First requesting the reader to bear in mind the remarks just offered, and also the historical survey already taken, I reply, it is a difficulty now in the very course of finding a practical illustration, and is precisely this: To insure success to the measure, it requires far more stringent provisions in the legislative act upon which it rests than the public mind is at all prepared for, or will steadily enforce; and, as a consequence of this want of preparedness, it requires in lieu thereof an ever-active instrumentality extraneous to

anything in the act itself, and supplemental to any authority residing in the State, in order that it be enforced; which instrumentality it can in nowise be assured of always receiving.

Let us first consider the first clause in this proposition. Before we are prepared to determine whether it be true, we must come to some understanding as to the *degree* of stringency that is necessary to enforce the measure. For this purpose the estimate furnished to our hands by the originators and special patrons of the law will amply suffice; and we have only to refer to the Appendix, where is to be found a copy of the law, to get this estimate. And, not to interrupt the continuity of the argument, by tracing, step by step, the several advances that from time to time have already been found necessary beyond the penalties awarded to the offence by the first enactment on the subject, it is sufficient to remark, that under the present and third law imprisonment is awarded to its first infraction; while, for still further security, other new braces and girders have been introduced into the building, which had no place in the original model, it being meanwhile by no means concealed, that, failing these, penalties of still greater severity, and braces of still greater strength, will be hereafter devised.

Now, it is important to observe that all this is in perfect consistency with the doctrine upon which this measure rests; so that, had we not yet reached this present grade of punishment, and had we not been informed that severer penalties were contemplated, we might still have foreseen that this would be the result; for it is only the necessary and inevitable consequence of the reasonings by which this "Maine Law" is supported. The doctrine taught, and the doctrine upon which this measure rests, and upon which it *must* rest, is just this: that the making, selling or transporting, from one place to another, of spirituous liquors, are crimes, just as murder and theft, or other similar felonies, are crimes; and that they should be considered as penal offences, just as murder and theft are penal offences, and should be dealt with accordingly.

Let us, then, examine this doctrine, and the consequences attempted to be drawn from it. And, for argument's sake, let us admit, for a moment, that all this is true — that they are such crimes. The

question still remains — and, so far as concerns the point we are now considering, namely, the preparedness of the public mind, it is the all-important question — Do men so regard them? Have they been in the *habit* of so regarding them? Is there any known process so rapid in its working, that what was only yesterday regarded as highly objectionable, and day before yesterday was not open even to that censure, shall to-day be looked upon as a crime in the sense above mentioned? How recently was it, pray, that lecturers went about the country *persuading* men not to commit murders? Within how short a time was it that men *pledged* themselves not to steal, or be guilty of any other felony? Where are the reformed murderers and the repentant thieves, whose aid is invoked to assist in the suppression of these evil deeds? On what page of the Bible is it — for, although our adversaries will not allow us to refer to that book to find out what constitutes a crime, we may at least refer to it as the source from which men have been in the *habit* of looking heretofore for that purpose — on what page of the Bible is it that these things, claimed by this law to be classified with crimes, are so spoken of? Where, until now, since the world began, is to be found a code of morals which teaches that things evil in themselves, and always evil, should be put down in the same category with things that *may* be innocent, and become *not* so only when abused? *Do — can* simple words, merely by being placed in a certain sequence by a legislative enactment, become clothed with a magic virtue, capable of effacing distinctions, which, if they really do *not* rest, men at least have always *believed* to rest, upon foundations deep and enduring and immovable as the everlasting hills?

This whole thing lies in a nut-shell. Human legislation cannot bring men to the point of regarding that as a crime in the sense I am now using the term — and I use it in the sense the framers of this law use it, and, be it remembered, in the sense in which they *must* use it — which all and every the antecedents belonging to it declare *not* to be a crime; and until they are brought to this point, they will not, if left to themselves, inflict penalties as for a crime. To guilotine a man to-day for doing what only yesterday we were *coaring*

him not to do, is a rapidity of progress which will scarcely be tolerated, even in these days of extravagant demands.

Let us look at it a moment longer. Twenty-five, perhaps I should say thirty years ago — and twice or four times this period is a mere pin-point when we are considering great moral changes — neither the making, selling, or drinking of spirituous liquors, was held to be even disreputable. The man who kept an array of decanters and wine-glasses upon his sideboard, and offered their contents to his friends, was as respectable a man in the community as his neighbor, who neither drank himself, nor offered the glass to others; and the century in which we live must have very considerably advanced into its first quarter, before even those who ministered in holy things were a whit better than their parishioners in this respect.

But to do away so nearly instantaneously with all men's previous habits of thinking, even upon trifling and unimportant matters, where the change is productive of no serious consequences, is not an easy matter; and to attempt the same thing where the change shall be the means of subjecting themselves to severe penalties and deep disgrace, or of compelling them to inflict the same upon others, is a task to which even Omnipotence itself is not equal, unless man's nature be first itself changed. A measure whose success should depend upon making men believe that color white which they have always supposed was black, or that red which they have always supposed was green, would stand upon all fours with the present, as to its chances of ultimate success. We do no greater violence to their nature, in demanding this change of a long-established opinion, than we do in demanding the other.

And, to pursue this point a little further, let us select, for our examination, the seventh section of the present existing law, which forbids the *transportation* of spirituous liquors. This is a pure addition to the former law, which contained no provision on the subject, and is doubtless regarded by the contrivers of it as indispensable to the law's efficiency; for upon no other grounds can it receive even an *apparent* justification. By turning to the Appendix, the reader may find this section in full; and he will perceive that not only is the carrying of spirituous liquors there made a crime punish-

able with imprisonment, but the evil intent is presumed against the accused, and, unless he prove the contrary, he is convicted. Now, it is true that, upon a charge of *murder*, the old and technical rule of law is, that the malice aforethought which is necessary to constitute that crime shall be presumed, and the burden of proving the contrary is thrown upon the prisoner; a rule however, which, in this highest of all offences, — until this offence of selling liquors made its appearance, — has been greatly relaxed in modern times; while in most, if not all other cases, the felonious intent which constitutes the gist of the offence is to be proved by the State. If a man be charged with passing counterfeit money, he is not compelled to show that he did it innocently, but the State must be prepared to prove that he did it knowingly, with intent to defraud, or the prosecution must fail. And it may be remarked, in passing, how the view I have offered as to the doctrine upon which this measure rests — the doctrine, namely, that the selling of liquors is a crime not distinguishable from other enormous felonies — is further confirmed by this stringent provision I have just alluded to; for, as in the case of homicide the malicious intent is presumed against the prisoner, so in this case the mere carrying of spirituous liquors is made to be constructive evidence of the evil intent, which the accused must rebut, or otherwise be convicted.

Now, that there may temporarily, and by force of accidents, exist such an anomalous state of things in a given community that a single conviction or two may be had, even under this most monstrous section, is perhaps not absolutely impossible; but that any community more than a single remove above savagism, which retains in its own hands the right of making its own laws, will ever be brought to adopt such a policy, and of its own accord, free from any external pressure, to permanently abide by and execute it, I think is impossible.

But my object in alluding here to this section has been, that I may repeat the question concerning it, which was before asked in relation to the *selling* of spirituous liquors. If, as I endeavored to show, men cannot be brought to the point of regarding *that* as a felony, can they any more be made to regard the *transportation* as

such? How, or when, has the way been prepared for the introduction of this unfamiliar doctrine? By what rapid steps, what gigantic strides, has it been approached? Most unfortunately for the whole law, and in a peculiar sense for this seventh section, men have hitherto labored under the strange delusion that the *motive* has something to do in determining the character of any given act; and, until this delusion be dissipated, it will cause them to discriminate, even if the law does not, between those actions which deserve to be ranked with felonies, and punished accordingly, and those which do not so deserve. An angel, for aught I know to the contrary, may pass from one point to another, without going through the intermediate space; but to require men, who in several respects differ from angels, to pass instantaneously from their former point of belief and opinion, to this which is so remote from it, is requiring a trifle more than will very soon be granted.

And, to dwell a moment longer upon this precious section,—for I confess I embrace it with a very tender love,—to give one parting glance at this most magnanimous section, which, in the very act of turning its back upon us, and making its graceful exit, by its concluding clause allows a man to prove himself innocent, notwithstanding the *prima facie* evidence of his guilt,—I submit it to every candid and rational mind whether it does not, in itself, reveal a poverty on the very borders of starvation, a nakedness, with scarce a fluttering rag to its back, belonging to this whole measure? When a law, to keep itself alive, proposes to send a man to jail for six months, because, forsooth, he carried a jug or a barrel of whiskey from one part of this good State of Maine, and deposited said jug or barrel in another part of said State, does it not exhibit that law reduced to a pitiable plight, which needs only to be well understood, when there shall be found “none so poor as to do it reverence”? The argument *ab absurdum* may serve to place this particular point in a stronger light; and I remark that the identical reasoning that justifies the above section would equally justify a law which should make it a felonious offence, punishable with imprisonment, to erect a building for the sale of spirituous liquors; to furnish a nail or a plank to be used in the construction of the same; to make or

transport said nail or plank for that purpose ; to sell a horse or wagon to be used for transporting said liquors ; to charter a vessel, without first stipulating that no liquors should make a part of the freight ; to make or sell jugs, demijohns, pipes, barrels, hogsheads, or other vessels to contain liquors ; in a word, to do *anything*, no matter how remote it may be from the prime act of selling, which may contribute towards that offence. I defy anybody, who accepts the reasoning upon which this section now being considered is attempted to be justified, to stop a hair's breadth short of the intensely absurd lengths I have just indicated ; and, if the radical unsoundness of the whole principle upon which this entire law rests is not thus fully illustrated, then I freely admit my incapacity to illustrate it. The very introduction of *this* section is a surrender of the whole matter in controversy. It is a confession of judgment in open court ; and, although, by various expedients, the pronouncing of the sentence may be deferred a while longer, that is sure to come in the end — a sentence from which the culprit will scarcely shield himself, by pleading either his good intentions or his meritorious deeds ; unless he can point to something more than that inimitable graciousness already remarked upon, in allowing a man whom he has first made a criminal, but who in reality is not so, to produce testimony in support of the latter fact. That such a distinguished clemency should be found dwelling right under the nose of an unmitigated austerity, makes one ready to suspect that there was some slip of the pen, whose intention was to exclude the rebutting testimony, but by an oversight allowed it to be offered. If it was indeed an oversight, it is unfortunate for the doctors who concocted this law that they did not commit others of a similar sort ; for their blunders would have proved more serviceable to them than their best-considered, longest-weighed counsels.

I apprehend that by this time it is sufficiently clear what the doctrine of the law is, and what the nature and extent of the penalties it proposes. And, in view of the considerations thus far presented, I ask, is not that part of my proposition established which denies that the public mind is prepared for these stringent provisions ? Is it prepared to discard all its former habits of thought — to throw over-



board these deeply-seated, long-cherished standards, by which it has always, until now, formed its estimate of the character of a given act,— in a word, to declare that to be a crime to-day, punishable with imprisonment, which yesterday was *held* to be, even if not *properly* so held, only a matter for entreaty and remonstrance ?

A word or two more on this point, which I believe to be of great importance, and I leave it. The reason I have thus far given why public opinion already in part refuses, and why it will in the end wholly refuse, to sustain this law, is because it seeks to make the thing it deals with a crime in a sense far beyond any estimate which men have heretofore formed respecting it. This estimate, right or wrong, is the result of a process which has been going on, more or less steadily, ever since that first vineyard was planted by Noah. It is an estimate growing up side by side and simultaneously with all those other ideas and conceptions of things which go to make up the man himself. It is incorporated into his very being ; and even if we admit, as for argument's sake I have done already, that it is an erroneous estimate — that it indicates an obliquity of vision — it is still a *natural* obliquity, finding its symbol in the knee of oak, which received its form while the tree was growing, and cannot easily be persuaded to part with that form, and take to itself a straighter one. Even before the germ from which the tree sprung had sprouted, that form was included within it,— latent, indeed, for a time, but pushed by every successive season of growth into an ever-increasing development, until it has attained an obstinacy of strength capable of resisting the stress of wild storms and angry waves, to which, now become a part of yonder ship, it is subjected. Now, I ask again, how are we to get rid of this estimate ? How are we to prevail upon men to let it go, and take up with another, its very opposite ? That it will be found existing in greater force and with a more distinct outline in some minds than in others, is, of course, to be expected ; for all men do not receive their convictions by the same means, nor cling to them with the same tenacity. We may go further than this, and admit that by a powerful shock, or under a severe pressure, the natural, and, for the most part, constantly-asserted influence of such an estimate over the conduct and actions of those who hold it, may

be temporarily and partially overcome. But the moment this unusual and extraordinary pressure is removed, may we not confidently predict a return to that condition of things it has succeeded for a while in disturbing? The *natural* causes which tend to invite such a return will *never* cease. There will *never* be a time when this inherent bias, if such it be,—this constitutional tendency,—will not assert its power; and to say there will never be a time when, by the withdrawal or the relaxed application of that which for a season opposed it, it will not be successful, seems to me absurd.

Having thus attempted to show that the public mind is not prepared to *approve* of this measure, let us now turn our attention to the other part of the question,—Is it any better prepared to *enforce* it? Even were it assured of a mere numerical preponderance of public sentiment in its favor, it still remains to inquire whether it be a preponderance so energized by an ever-abiding conviction of its necessity as to energize the statute itself, and bestow upon it that force, that vitality, and that unchallenged authority, which are essential to its being enforced. It must have not only an *approving* but also a *working* spirit. Not this only, but any penal statute which lacks this *kind* of preponderance of public sentiment will inevitably become a dead letter, unless it be kept alive by an agency outside of, and altogether beyond, anything in the statute itself, or in the judicial system of which it is a part. The utter nullity of the statutes which forbid profanity and Sabbath-breaking fully illustrates this point. *They* are not enforced simply because there is no loudly and persistently uttered mandate on the part of the people that they *shall* be enforced. True, indeed, it may be that, should a relentless energy and a despotic will become enamored of these neglected statutes,—should a quickening spirit, animated by some personal, selfish motive, breathe upon these dry bones,—should they be made to constitute the platform of a numerous, well-drilled and powerful party,—should they, by all expedients, however despicable, be sustained and strengthened,—should they, by all subtle contrivances and boisterous arguments, be promoted in importance above every other law, so that, if they be executed, all others may safely be neglected,—should spies and informers become part and parcel of the

newly-invented mechanism,— should courts be tampered with and destroyed, because they refuse to toe the mark prescribed by the great high priest of the order,— should juries be packed, and legislatures be bribed and overawed, for the same purpose,— *then* these dead-letter statutes would be dead no longer, but would become clothed with a demon's energy, even if they did not breathe a demon's spirit. And again : let the party which has thus warmed them into life run its course, let the purpose for which it was created be accomplished, and let the crutches, borrowed for a time, by means of which these suddenly favorite acts have been temporarily supported, be knocked from under them, and down again they go into the dust, themselves again to dust converted. Such, apparently, is the not distant doom which awaits this now world-renowned, this soon to be world-rejected "Maine Law."

The same point, namely, the necessity of this energizing spirit in the community to be communicated to these penal statutes, may be further illustrated by a reference to the criminal codes of the different states, and by noticing the very unequal degrees of rigor with which they are administered. Take, for instance, the crime of murder. The *laws* respecting it are substantially the same in the Southern and Western States with those we have in New England. But who knows not that the instances in which a conviction is had, making, of course, a proper allowance for the unequal number of cases arising in these several portions of the country, are of far more infrequent occurrence in the States first named than in the New England States? And why? Not because of any less intrinsic virtue in the law in those first-named States, but because there life is estimated at a low rate; and if there be a preponderance of public sentiment in favor of the law, it is of that sluggish, drowsy description as to be little better than useless.

If we look, too, for a moment, to those States where the prevalence of duelling has required laws to be enacted for its suppression, we find the same fact further illustrated. The ingenuity of man has been taxed to the utmost to find a remedy for this evil; but, as in the present instance, the remedy has been looked for in some wordy statute, loaded down with heavy penalties, while the evil itself,

snugly ensconced under the apathetic or only half-awakened indifference of the community, laughs in its sleeve at these silly and futile efforts directed against it. The innumerable so-called "gallon laws," which have been from time to time enacted by different State Legislatures, may also be referred to in the same connection. The infraction of these laws was, in some instances, at least, very carefully guarded against, and by very severe penalties; but, after living long enough to make apparent their utter worthlessness, they went down to their graves unhonored and unlamented, whither they are soon to be followed by their more pretentious and not less good-for-nothing blood relation. May he prove to be the last of his race!

I have alluded to the existing laws against profanity and Sabbath-breaking, and it may be said in reply that these statutes are directed to the prevention specially of offences against God, which do not interfere with the interests of society, and are therefore little esteemed, and never executed. But, admitting this to be true,—and I shall presently have occasion to show that it is so,—it in no wise affects the inference I have drawn from this neglect. *Why* they are little esteemed is of no consequence to the argument, which requires only that the explanation of their non-execution already offered should be the true one.

And, if any further proof were needed on this point, I might refer to the managers of this identical "Maine Law" to furnish it. That it has thus far been sustained and enforced by the sheer aid of an outside machinery, and that nothing else but these borrowed helps has kept it in even a tolerable working condition, is undeniable. There is no risk in asserting that the penal statute yet remains to be enacted by any legislative body whatsoever of which it can be said that it has received a thousandth part of the individual, unofficial aid which, from the outset, has been contributed by its advocates to this statute.

Now, why has this been done? Why all this wasteful expenditure of labor?—for, unless necessary, wasteful it has been, and of a very ungracious, unenviable sort, too. Why has the law not been left to take its chance with other laws? Why not allowed, as any law, to retain its own self-respect, must do, to stand upon its own legs? Is

not the evident answer this : Because those who begot it knew that, like similar laws to which I have compared it, it had no legs of its own to stand on ? And, once more : why, O, why has it thrown itself into the concupiscent arms of a patronage-seeking, place-hunting, honor-coveting party of political aspirants, to be for a while caressed and slobbered over, and then — tossed into a ditch, like a common drab, by the highway ? Only because it was stricken in its birth with the same inherent weakness and imbecility which, since the foundation of the world, have characterized all laws of a similar nature.

I now return to consider, for a moment, a distinction already alluded to, which is seen in the different degrees of importance attached to those laws intended to restrain mere vices and offences against God, and those which seek to suppress crimes and offences against society ; and, since this “ Maine Law ” belongs undoubtedly to the first-named class rather than to the last, it may be well to inquire upon what this distinction is founded. And I reply, chiefly, if not entirely, upon this : that the former affect individual interests injuriously either not at all, or only slightly and indirectly, while the latter do affect them directly, and sometimes fatally. The same man who admits that a state of society where profanity and Sabbath-breaking are unknown is preferable to one where these vices are prevalent, and who, perhaps, would be well pleased enough to see them suppressed, still finds within himself no motive for exertion in that behalf at all to be compared to that which impels him to support those laws which protect his life and his property. In the knife or pistol of the assassin, which may destroy his life,—in the torch of the incendiary, or the pen of the forger, that may take away his property,—he discovers arguments in favor of the laws which punish these offenders, whose voice is never silent, whose force never ceases to be felt. So, too, with statutes that have been found necessary to protect the public against fraud ; they need no outside helps to commend them to every man’s approbation, and to secure for them every man’s support, because every man feels that he, as an individual, needs their protection ; and if himself, his neighbors also.

Now, it is precisely upon this conviction dwelling in every man’s

heart,—that he as an individual—and if himself, his neighbor—would suffer loss or inconvenience should this protection be withdrawn,—that all penal statutes are indebted for any measure of favor with which they are regarded. Even if the individual seems sometimes to rise above this selfish level, and talks, in swelling phrase, about the honor and the authority of the State, and affects or really feels a concern lest it should be insulted or impaired, this elevation is, after all, only seeming. He is thinking still of those individual interests—his own or his neighbor's—which are *best* protected when the State is most respected; and small pains would he take to defend such State authority, or resent an insult offered to it, only that he knows he or his friends are thus getting an additional defence.

But it may be said, in reply, that this "Maine Law," by suppressing, or rather aiming to suppress, the vice of intemperance, makes an appeal to this identical conviction to which allusion has just been made, and therefore comes neither into the category of these dead-letter statutes, nor is liable to the same condemnation. And it may be admitted that the law has reference to an object which not only just at present interests the community much more deeply than does the suppression of profanity or Sabbath-breaking, but which, from its more intimate connection with great social and individual rights, is likely always to retain this precedence to some extent. But, after admitting so much, it is still undeniably true that the law is directed against a *vice* whose consequences are either wholly confined to its victims, or affect society in the mass and indirectly, rather than against what are commonly denominated *crimes* or *felonies*, which affect men individually and directly. Men doubtless have a firm persuasion that intemperance has a *general* tendency to render both life and property more insecure, and they have some tolerably clear perception how it is *remotely* prejudicial to their interests in a variety of ways; but, to use a homely expression, this is stirring them up with rather a long pole. The language addressed by the law against murder to every individual personally is this: "See to it that I am enforced, or your life is not safe." The statutes against

forgery, theft, arson, proclaim into the ear of every man, "See to it that we are faithfully executed, or your property is in danger."

But this law, unless, indeed, upon the general score of philanthropy, of which I shall speak presently, has no personal address for any man. Its language is addressed to society at large, and is something like this: "Intemperance is a great evil, the fruitful source of crimes and wretchedness, destroying its thousands of victims, and bringing immense injury to the world. I seek to suppress this evil; and I call upon all good citizens, who have at heart the welfare of the community, and the good of their fellow-men, to aid me in this attempt."

A most commendable endeavor, doubtless, and a most laudable exhortation! But will this last be effective?—that is the point. Will it suffice to triumph over the two enemies whom I have now exhibited as in array against this measure—an apathetic indifference in regard to penal laws which aim at *general* results, and the natural repugnance to the infliction of severe judicial penalties; a repugnance felt, and not always overcome, even in the case of great crimes, by everybody and always, admitted to be such? Does not the history of the past bear indisputable testimony to the fact that, for this purpose, nothing can take the place of those instincts of self-preservation which have been purposely and wisely endowed with muscles that never tire, and with a vigilance that never sleeps? When called upon to act in the sphere for which they were designed, they obey the summons with alacrity; but when it is attempted to borrow their aid for the promotion of any object beyond this sphere, they heed it not.

If, then, the rigid and faithful enforcement of even that class of penal statutes which has these wakeful, never-slumbering instincts to appeal to in its support is always an up-hill and a more or less uncertain task, what may we expect will be the fate of that other class, which can make no such appeal? What can supply the place of these sleepless watchmen, these faithful guards, who ever keep a vigilant eye upon our property, to protect it from injury,—who attend us in all our wanderings, to shield us from danger,—who

stand ever waiting at the doors of our dwelling to prevent the ingress of whatever may injure or molest us?

I have thus cursorily examined these two classes of laws, in reference to the very unequal degrees of favor with which men are induced to regard them, from considering how largely individual interests are protected by one class, and not at all, or very remotely, by the other; and I once more repeat, that all penal laws must ever mainly depend, for their being sustained and enforced, upon this full and lively recognition and appreciation of their absolute necessity by each and every individual mind.

To avoid the consequences of this reasoning, however, it may, and probably will, be asserted that, for the support of a measure like the present, involving such immense interests, motives of philanthropy will amply supply the place of those which flow from the more selfish considerations just mentioned. Did I deem it necessary to enter into a serious argument to show the futility of this reasoning, the materials for the construction of such an argument are at hand in the greatest abundance. I incline, however, to doubt, and to treat with small respect, a philanthropy that rests thus far, certainly, upon very equivocal proofs. I must confess to a faint misgiving as to the genuineness of the article—a misgiving founded upon certain passages in its history I cannot entirely forget. I have a somewhat fresh recollection of what it has already bestowed upon us,—of what helps it has availed itself, what doctrines it has taught, what alliances it has formed, what instruments it has used; and, if these be its fruits, the less the world has of them the better. *Timeo Danaos, et dona ferentes.* I will not go so far as to say that it is not genuine, but it certainly keeps very strange company, and is altogether a very strange sort of a fish. “He smells like a fish; a very ancient and fish-like smell; a kind of not of the newest, poor John. \* \* \* Legged like a man, his fins like arms! Warm, o’ my troth! I do now let loose my opinion, hold it no longer; this is no fish, but an islander that hath lately suffered by a thunderbolt. Alas! the storm is come again; my best way is to creep under his gabardine, there is no other shelter hereabout. Misery acquaints a man with strange bedfellows.”



Now, this may seem rather cavalier treatment of Mr. Philanthropy ; but I confess I dislike very much the surname, Politico, which, in this instance, belongs to him. I never yet knew one of that branch of the family for whose honesty I would give a fig. All of them I ever knew were sadly addicted to creeping under gabardines, and to having strange bedfellows. They smell of lobbies and log-rolling ; and, if they do not buy and sell spirituous liquors, they are noted for being frequently concerned in another kind of traffic, not less disreputable. Indeed, there is no sense in which I at all esteem this branch of the family ; and, if the entire race should become extinct, I should hardly think the world called upon to put on sackcloth. They resemble, in certain particulars, a very small but active little animal, who, when you would put your finger upon him, is not *there* ; of whom somebody once said that, if he had them all in a bag, he would not "take too much for them," or something to that effect. I have small space more to devote to him while he bears the above surname ; and if anybody believes he is to be counted upon to sustain this measure, or any other, more than a single season, all I can say is, I wish him joy of his belief. And, in concluding my examination of this point, I ask again, is it not evident that all laws, and especially those which are penal, are mainly indebted, for whatever authority they possess, to that personal perception of their necessity which results from a knowledge, in the heart of every man, as to what his own private and individual interests require ; and if his own, his neighbor's also ?

And, having arrived at a pause in the argument, let us stop for a moment to take a glance at this question in the attitude it now occupies. Does it exhibit anything to encourage the belief, either that the public sentiment will permanently *approve* the measure ; and, if so, does it afford the slightest ground for belief that it will *enforce* it ? Will juries, who are to be taken from out of the community, unless, indeed, we are to have packed juries, and expurgated jury lists, convict under such an amount of testimony as, in a majority of cases, the State will be able to procure ? Even with the new and increased penalties, considering the greater number of chances for escape growing out of this greater severity, will men be deterred from

selling by this *new* act, any more than they were by the *old* one, which is confessed to be inadequate? And if *this* advance upon a former punishment brings with it no advantage, how shall any future advance do more? Is it not a proposition too self-evident to require proof, that what this statute may gain to itself in authority, by imposing heavier penalties, it, at the same time, will lose by the difficulty of executing them, which will be increased in the same ratio? If, in the case of crimes acknowledged to be such by everybody since the world began,—crimes whose consequences come home to every man's own door, and are pointed at his own throat, as murder and theft, for instance,—if, in such crimes, the guilty often escape the penalty due to their offence altogether, for the identical reason that a weak human nature shrinks from the dread task imposed upon it, how can we hope for a more unyielding sternness where the offence is of the kind we are now considering, born of yesterday, until when it was not a crime at all; and, still more, an offence whose consequences are distributed at random through the community at large, rather than visited upon the heads of individual members of that community?

“Ah,” but say the Maine Law logicians, “we have settled these questions already. We have done, and, any time these four years past, have been doing, just what you here disaffirm; and what we have done before, we can and will do again.”

In reply, I say that, for argument's sake, I will admit you have done these things in the past, to the full extent you claim to have done them; but I take issue with you upon that other and last clause, which brings me now to examine the second part of the main proposition which I submitted some pages back. It is this,—that this measure requires an ever-active instrumentality, extraneous to the act itself, upon which it rests, and supplemental to any intrinsic authority it possesses by virtue of its being a State enactment, in order that it be permanently enforced; which instrumentality it can in nowise be assured of always receiving.

And the necessity of any argument to prove the first clause of this proposition is nearly, or quite, superseded by the views already presented under a former head, where I attempted to show the univer-

sal imbecility of a certain class of statutes, and to explain the reason of that imbecility. If they be, as was then contended, inadequate of themselves to accomplish the purpose for which they were created, it is evident they must receive some help from abroad to atone for this weakness, or else continue to prove inoperative; and if this statute we are considering was properly classified with them, then I may assume it as already established that it *does* need this extraneous aid I have insisted upon.

And the dilemma to which I suppose the "Maine Law" doctors are thus brought has two horns to it, and they may take which they like best; but, notwithstanding their scruples, for which I ordinarily entertain a great respect, a *horn*, for once, at least, I must insist upon their taking. They may say either that these extraordinary helps and contrivances, upon which I have represented the law as resting in the past, will continue to be at hand for its support in all coming time, or that the measure will so gain upon the popular favor as not to need them.

And of two things, both so unlikely that nothing can be more unlikely than either of them, it is hard to tell which is most so. Let us first examine that last named. For this purpose we might content ourselves with asking this single question: Is it likely that a large portion of the community, comprising men of the highest respectability in society, in the church, and in the state, men who contribute their full share toward determining the tone of public sentiment, men who, with full light to guide them, have bestowed the most careful and deliberate attention upon this whole subject, is it likely that such men, entertaining from the first most decided objections to this law in its milder form, and in its partially unestablished inadequacy, should ever become reconciled to it in its more hideous development? Do men ever come to fall in love with a thing growing constantly worse, which when it was at its best they cordially despised?

But this point is both worthy and capable of a more extended examination. And, in attempting this examination, I remark, first, that if the law is to gain upon public favor, it must be either by a change in the law itself, in the field where it is intended to

operate, or in those whose increased approbation it thus hopes to secure.

And were the probabilities of any substantial change in the law itself greater than they are, that is a point I am spared from inquiring into, since the question has to do with the present law only, and not with another to be substituted for it. Should it be said that the field where it is intended to operate will change,— that there will be less opposition to the measure, and fewer obstacles of every sort in the way of its being received into the hearts of men, growing out of a general progress in the temperance reformation,— I have only to say that this in reality amounts to a begging of the question at issue; for, since this law, as we have seen already, claims to be the sole occupant and tiller of this field, if we at any time admit that the change contended for has taken place, we admit at the same time that the law has produced this change, and so surrender the whole subject-matter of debate. Any objection to the law, which the law itself, in the course of its natural operation, is capable of removing, to that extent evidently ceases to be an objection; and I am therefore excused from dwelling longer on this point, since a contrary supposition to the above would overthrow what the previous reasoning is supposed to have already established.

The change, then, if any, upon which this law must depend for a future degree of approbation beyond what is now accorded to it, must be a change in man himself. And what must be the *nature* of this change? Must it concern matters of substance, or matters of form? Must it have reference to conditions inherent in man's nature, or to those which have been acquired? to conditions that are of his essence, or which are only accidental? Must it be a change confined to the man himself, or will it affect the relations he sustains towards others around him?

A remark made upon a previous page, that "a measure whose success should depend upon making men believe that color white which they have always supposed was black would stand upon all fours with the present," furnishes an answer to these questions. The change that is requisite must be a *radical* change, going down into the secret places of the heart — into the deepest recesses of the

human soul. It must be a change by which indeed "old things shall pass away, and all things become new," a change which shall do for every man to whom it happens what we read that a sudden accident or a severe sickness has sometimes done for its subject — making him to forget and be absolutely rid of all his former ideas and stock of knowledge, and leaving him to acquire new ideas and a new stock of knowledge; a change that shall make him vigilant, where before he was careless; an enthusiast, where before he was listless and apathetic; steady and determined, where before he was wavering and irresolute; stern, where before he was clement; a change, in short, which shall convert him from a free, self-determined, responsible agent, called man, into a wire-worked puppet or automaton, moved and directed by the arbitrary power of a mere human enactment. I say arbitrary power; and I do not mean in that inferior sense that it forbids the dealing in a certain article, or that it interferes in mere matters of trade and commerce; but in that far higher and more important sense, that it undertakes to meddle with matters of conscience — to prescribe as to what men shall receive or reject; to compel them to pronounce that a felony, which all its antecedents, and all their own previous convictions, declare is not so; and still further ordains that they shall become the instruments of punishment to be inflicted upon their fellow-men, for the doing of this law-created felony, which, judged by their own hearts, is no felony. If this be not an arbitrary exercise of authority, we may well ask what is such an exercise. If he be not a despot who tells me to send a man to jail for six months because he was seen to carry a barrel or a jug of whiskey from one part to another of this State of Maine, then no despot lives on earth. If a statute be founded upon a principle which makes it a crime, punishable with imprisonment, to furnish or carry a nail or a plank to be used in the construction of a building where spirituous liquors are to be sold, it is an arbitrary statute; and all the artful dodges, pitiful shifts, and adroit evasions, of which the "Maine Law" doctors are the masters, cannot make it otherwise.

That a change nothing short of that above indicated is necessary, before this law can hope to be regarded with greater favor than it

has already obtained, is evident from the argument already presented on this whole question; and it is equally evident that no such radical change can possibly take place. One horn of the dilemma to which I supposed the advocates of the law to be reduced being thus disposed of, it remains that I devote a few words to the other, which is this: that those extraordinary helps and contrivances upon which the measure has hitherto rested will continue in all coming time.

And the mere statement of this proposition reveals its absurdity, with a force nearly beyond the power of illustration to increase. Whether the motives that induced these outside contributions were pure or otherwise,—whether they were furnished by a hope of reward in the shape of office, or patronage, or short-lived distinctions, or had their origin in a higher source,—they must be, in either case, of but transient duration. Inducements cannot always be at hand to attract the selfish; and those who were ready enough to put their shoulder to the wheel to help it over a rough place in the road, will withdraw their aid in disgust when they discover that the same aid is requisite even upon the smooth and level turnpike. It would be, however, little short of an insult to the reader's understanding, to offer further proof of a thing so plain in itself; and I here leave it, only remarking that I might have safely omitted its introduction altogether, except that it serves to explain the partial and temporary success which has already attended this measure.

One point more remains to be examined, and with that terminates this part of the discussion. It has been remarked, already, that so far as any statute depends upon principles still in dispute and unsettled, principles incapable of *being* definitely settled, or principles obnoxious to a portion of the community, so far as it is necessary that the preponderance of public sentiment in favor of the measure should be of a decided character, both in numbers, and as to its inner force and vitality. Now, let us examine this "Maine Law" in reference to each of these three particulars.

I. How far does it plant itself upon principles *already* settled? The grand principle it involves, and upon which it rests, is that of prohibition. And, using this term in its commonly-received acceptation, how far has the doctrine it teaches been interpreted to the pub-

lic mind? How much effort has been directed to the developing and defining of its exact meaning? How many treatises have been written on the subject? To what extent has it been discussed, with a view to ascertain in what cases, for what purposes, and to what degree, it may or may not be applied? If there be any deficiency of light thrown upon the question from these sources, how far does any success that has attended its application in the past history of the world go to supply this deficiency? Does it, by any light shed upon it from *any* quarter, make the most distant approach, in respect of a full understanding of its meaning, a clear perception of its theoretical teachings, and of the proper cases for its practical application, to those great cardinal and long-established truths which men have universally received, and to which they most confidently refer in justification of their conduct? These questions evidently admit of only one answer; and we may unhesitatingly affirm that comparatively nothing has thus far been gained, either by experience or by investigation directed to that object, towards a final settlement of the principles upon which the doctrine rests.

II. How far do these principles admit of *being* definitely settled? And the fact that little or nothing has been thus far gained towards such a settlement, goes far towards furnishing an answer to this interrogatory. The fact itself indicates that the question is of that complex, intricate character, that it includes such an immense field to be at once surveyed, and such a multitude of conflicting circumstances to be compared and reconciled with each other, as to be nearly, if not quite, beyond the limited powers of the human mind to grasp. It is precisely one of those questions upon which we may expect men *always* to differ. The theory itself admits of being enunciated only in the most general terms; and the moment we seek to extract from it rules for any practical guidance, we find ourselves so encumbered by exceptions, and so embarrassed by conditions, that the attempt proves a failure; so that we are perfectly safe in saying that these principles, from their very nature, are incapable of being satisfactorily and accurately determined, or of furnishing data upon which to found anything like a complete system.

III. How far are the measures this "Maine Law" advocates, and

the doctrines and principles it avows, obnoxious or otherwise to a portion of the community? And it is unnecessary to tarry a moment to answer this question. It has been already answered, long before to-day; but there is one view of it, which, although it has been already glanced at, is worthy, in this connection, of further attention. To what *portion* of the community is it that these measures and principles are obnoxious? Is it, indeed, as has been so pertinaciously and so vociferously asserted, to a portion so degraded generally, or so professionally interested in this matter, that they are disqualified from testifying in regard to it, that they are not worthy of being listened to? Those who *dare* to assert such a thing are bold men indeed; bold to assert what they themselves, and everybody else, know to be utterly false — what they *so* know to be *so* false, that it would seem nothing short of a most dire extremity would have sufficed to induce the assertion; and as a proof of that dire extremity we receive it. That there are men to be found in great numbers, scattered up and down through the length and breadth of this State of Maine, to whom this whole thing is utterly obnoxious; who, by their general purity of life, and uniformly irreproachable character, by their unintermitted and zealous efforts in behalf of this identical temperance reformation, by their previous habits of thought and severe mental discipline, their comprehensive views, their varied and profound attainments in general knowledge, and in moral and political science, are, to say the least, as well qualified to judge correctly, and as fully entitled to be listened to with respect, as any who belong to the opposite faction, is a fact as indisputable as is that other fact, that all this has been over and over again denied — it is a fact as incapable of being rendered obscure, as the shameless audacity and mendacity of those who deny it is incapable of going undetected. How a deliberate conspiracy, aimed at a single individual in this community, whose well-known character, still more than his conspicuous and influential position, caused him to be regarded as a most formidable opponent, with a view to destroy that character, and so nullify any conclusions that might be drawn adverse to this law, from his mere failure to heartily, and after the prescribed fashion, espouse it — how such a conspiracy, for such a purpose, was most signally overthrown,



is already known to a vast multitude, who, even if they be friends of this "Maine Law," rejoice unspeakably at the discomfiture of a scheme like this, which was designed to advance that law.

Now, unless there be some way to evade the force of the preceding remarks, it follows that, in order to the final triumph of the law under discussion, there must be not only a preponderance of public sentiment in its favor, but it is further essential that it should be a very *decided* preponderance — not merely in numbers, but as to its entire construction and inward essence. Not only must it be always free of any negative weaknesses, any vacillating temper, any pliancy of spirit, any selfish or temporizing policy; but it must be endowed with an energy that shall never subside into apathy; with an indestructible vitality, exempt forever from decay or diminution; with an enduring, abiding permanency, capable of surviving every accident of time, every fierce onset that may ever be directed against it. Has the law a guarantee of these conditions of its success? It has declared itself for force, and it must abide the issue. It has entered an arena from which it may go no more out forever. If it lives, it must live with its armor ever harnessed on for action; if it dies, it must die on the field, from which there remains to it now no escape.

I have thus attempted — with what success the reader will determine for himself — to exhibit some of the chief obstacles in the way of the permanent *practical working* of this "Maine Law." In concluding this part of the subject, it is proper to ask whether there be anything belonging to the law by virtue of which it may claim to constitute in any wise an exception to the general rule, and so to that extent evade, or subtract from, the force of the preceding argument against it.

And I am constrained to reply there is nothing, certainly nothing that can have more than the most transient existence. I have made no allusion to those fierce appetites and passions which the law seeks to restrain, and in which it must ever find a most formidable opponent; but the opposition I have referred to has its foundation in the very nature of man himself; and, as we have seen, until *that* is changed, the opposition to this law can no more change. When such a change is wrought in his nature that he can throw off his allegi-

ance to all his former habits of thought as easily and effectually as he can his bodily garments, this opposition may cease, but not till then. It *will* — from the very necessity of the case it *must* — survive the fervor now temporarily aroused against it. Ever holding its own — ever presenting the same unbroken front, the same compact phalanx — it will gradually, even if not rapidly, encroach upon a territory whose integrity is left to depend upon a vigilance that must tire; a vigilance which is not *necessitated* by anything in man's nature, but one that has been assumed under the pressure of influences purely external, which, like all other externals, will vary and fluctuate with every successive hour. The column is thrown from its perpendicular position. The forces that rest against it, tending to crowd it still more from its equilibrium, never for a moment relax *their* pressure, while the fainting, apathetic hearts, and the tired, overstrained muscles, which resist its greater declination, must yield to that law of nature which demands for them repose and restoration.

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## PART II.

It has been observed already, that any weaknesses or imperfections revealed as belonging to this law considered in its *working* capacities, will furnish to the minds of most men more effective arguments against it than any reasoning of a mere abstract nature will be likely to disclose. To overlook this latter field, however, altogether, where, if not in such abundance, still *some* fruits may be gathered, would give to the presentation of the argument an unfinished appearance, even if it should not do more, and make it to seem absolutely defective. Reluctantly as I approach the task, it is one, therefore, I do not feel myself at liberty to decline,— a task, however, which I would venture to express the hope has been partially relieved of its difficulty by the preceding argument, along whose path have almost unavoidably shot some not altogether indistinct gleamings of the

truths which I now propose more particularly to examine and illustrate.

Announced, then, in the fewest possible words, and in the most general terms, the great fundamental error of this "Maine Law" doctrine is this — that it overlooks and entirely ignores the principle, or rule, that the means must be proportioned to the end. Ever since the fiat went forth, "In the sweat of thy face shalt thou eat bread," the rule has been, you may not have something for nothing; and if not something for nothing, no more may you have much for little. The rule is, "Do you want *anything*? you must pay — not nothing for it, not a half-price, not a clipped guinea; but an *equivalent* — a full, perfect equivalent, to be honestly paid down." *That* is the price at which you may make *any* something yours which is not yours already, and that is the *only* price. The rule is so unchangeable that it holds even in the apparent exception. This apparent exception is seen to-day, in the success of the gambler. That it was only apparent is shown to-morrow by his then losing what yesterday he appeared to have gained. The apparent exception is seen this month in the fruits of a fortunate speculation. That it was only apparent, is proved the next month, by these fruits being scattered to the winds.

There is an old saying, "That the Lord never starts a good enterprise, but the devil turns charioteer and runs away with it;" and he does this most frequently by inducing men to claim too much from too little, to seek extravagant results from humble agents, and to spoil what was a very good thing in its way, by seeking to make it available for a much greater thing, when it is worse than useless. The temperance reformation was one of these "good things in its way," altogether *too* good to meet the views of his Satanic majesty; and he accordingly looks around for this his favorite charioteer, and, by inducing men to claim too much from the enterprise, prevents their getting from it anything. If he is already chuckling over an unwonted success which seems likely to attend his efforts in the present instance, it is probably because this last experiment has had the benefit of all his former experience in this matter of fast driving.

Turn our eyes whithersoever we will, this disposition to get too

much from too little finds everywhere its illustration. We see it not only in the expedition of the rampant fillibuster, who, in exchange for a score of lives, would purchase immense territorial possessions, — not only in the gambling saloons and the stock markets of our large cities, not only in the gold mines of California and Australia, — but we find it, too, even in the plodding farmer, the easy-going husbandman, who, having at hand fertilizing materials enough for one acre, spreads them upon two, if not three, and, instead of the good honest ear, with rounded measure, he gets a shrunk and wizzled nubbin; he ploughs two or three inches deep, instead of ten or twelve, and instead of one bushel of golden grain, plump and well-filled, he gets two of chaff.

But thickly strewn as are upon every side the manifold evidences of this spirit, nowhere has it been oftener exemplified, and nowhere has it been attended with more deplorable results, than in the frequent attempts to find a *specific* for the great social and moral evils which in the past ever have afflicted, and which, with scarcely an appreciable diminution, still continue to afflict, the great family of man. The actors in a rapidly-moving drama hardly succeed each other with greater swiftness upon the stage, than do these magnificent schemes follow each other. But, notwithstanding these multitudinous panaceas, — all, too, infallible, — we, of this generation, sicken and die quite after the same fashion as did our fathers before us.

The instrument which these would-be reformers, these self-styled and self-glorifying philanthropists, have most often sought to make available for their purpose, is that of legislation, or, in some shape or other, political engineering. Under the “droppings” of some august council-chamber, or legislative hall, the sanitary herb is looked for whose potent spell is to relieve mankind forever of the curse under which they have hitherto rested. With the most overwhelming proofs all about us that a heaven-descended law, — a law devised in the far remote counsels of eternity; a law in perfecting which was exhausted the fulness of a divine wisdom, and an infinite knowledge; a law suited to the thing created by Him who was the creator; a law exemplified, illustrated and enforced, in a manner no other law has ever been, by the life and the death of the great Lawgiver himself;

a law, too, so simple that he who runs may read,— with the most overwhelming proofs all about us that such a law, in the course of eighteen hundred years, instead of curing, has succeeded in only partially alleviating these evils, we still go about in the hope to find the yet unrevealed secret lurking somewhere in the dark, labyrinthine passages of some petty statute of human invention! Putting their trust in these earth-born enactments, paroled in parchment, and bulwarked around with huge tomes of man's wisdom, we have seen the mightiest nations go down successively into the dust; and, in proof that their fate shall never become ours, we confidently point to another parchment, to other tomes, and to other similar enactments. Heaven grant that for this glorious heritage we have received the parallel shall go no further! Heaven grant that it be not our destiny, to exhibit, more illustriously than has yet been done, the folly of claiming too much from too little!

But, to proceed. From the general truth with which I started, and which I have in a few words attempted to illustrate, namely, that the means must ever be proportioned to the end, what is the corollary to be drawn as affecting the subject-matter of discussion? It is this: that great moral and social evils do not admit of a *cure* by political prescriptions, judicial decisions, or legislative enactments.

And I must again remind the reader that it is important to bear in mind the sense in which the word *cure* is here used; for nothing less than this whole controversy turns upon this precise point. That these evils *do* admit of being *modified* to a certain extent, of being *restricted* within narrower limits, of being *partially* controlled, and that, too, by the *aid* and *coöperative* authority of a human statute, is not for a moment disputed. But that is not the sense in which the word *cure* is above used; it is not the sense in which the begetters and the managers of this "Maine Law" use the word; it is not the sense in which their entire reasoning, their fundamental doctrine, *compel* them to use it. And it is only when they are driven to *defend* the measure that they sometimes resort to that inferior and diluted signification of the word above mentioned. When they are *recommending* their favorite to the adoption of others, they

claim for it the power to provide an effectual and a thorough *cure* for the evil it seeks to cure. Indeed, there is one view in which a *defence* of the measure requires that the word should bear its full significance; for upon what other grounds can even an *apparent* justification be found for the severity of the penalties the law imposes, and its generally stringent provisions? Will men be brought to pronounce that a felony to-day, which yesterday was only matter of entreaty and remonstrance, and day before yesterday not even that, *merely to palliate* this evil? Will men be prevailed upon to give their assent to a kind of reasoning that may compel them to send a man to jail, because he carried a plank or a nail towards the construction of a building for the sale of spirituous liquors, upon any grounds a whit short of these — that this evil thing shall be thus *wholly* removed — extirpated root and branch? Evident it is, beyond all possibility of denial, that if men *ever* assent to such an unfamiliar doctrine, — which, in the proper place, I showed they will not, — it will be under no inducement less than that just named. That this is the precise inducement which the patrons of the law offer, is also evident from this, — that their identical objection to the old temperance movements and organizations, which they so virulently seek to supplant, is just this — that those movements did *not* and *could not cure* this evil. That principle of moral suasion which they so love to berate had certainly done much towards *crippling* the monster; and, had it not, this boastful law might have fared still worse than it has in the encounter; but it was unequal to killing him outright, and, *therefore*, we must hatch something else that *will* be equal to this task — and hence this mare's egg!

Having thus shown the inevitable meaning which attaches to the word, I proceed to examine whether the above proposition or corollary be not true; or, in other words, to inquire whether the attempt to *cure* great moral and social evils by a legislative enactment be not in disregard of the rule which demands that the means should be proportioned to the end, and so whether this "Maine Law" be not an instance where too much is sought from too little.

And I apprehend that the principles upon which the truth of this proposition rests are too plain, and too simple, to require, or even

to admit of, any very extended examination. I apprehend that God himself has settled this question. His great—I might say his only—requirement is, “mend and purify the heart.” So essential is obedience here, so absolutely imperative is this command, and so held in esteem by the Almighty Governor of the world is this his first ordinance, that he will bring to it a revenue of glory, by withholding success from any scheme or instrumentality which does not recognize and obey it. So far as it fails to be distinctly recognized, its authority is disaffirmed; and any attempt to dispense with its aid—I mean, of course, in matters where its aid may be properly invoked—is a virtual insult offered to the ordinance itself. Whether this mending and purifying of the heart be, or be not, to our apprehension, the paying of a great price, from which we shall be entitled to claim a great reward, matters not to this argument. He who governs the universe, and who has appointed its laws, so esteems it; and if these scheming reformers dislike the appeal to this “higher law,”—and even if I am doing them an injustice, I cannot avoid attributing to them the supposition that He has nothing to do with this matter,—I say if they dislike the appeal to this higher law, a reference to the past history of the world furnishes substantially the same argument, which, in the form first presented, I have supposed them to reject. Failure always has attended such schemes; so that, let the law which causes that failure derive its authority whence it may, we are justified in believing it to be an unchangeable law. This rule, or, if you choose, this established law of nature, does not, indeed, preclude a resort to statutory enactments as effective allies who shall contribute their aid towards the removal of this class of evils I am now speaking of. But, as has been said more than once already, the “Maine Law” doctors do not regard their beloved bantling in any such light. They not only claim that it is in itself all-sufficient for the purpose it contemplates, but any assistance to be got for it, by an appeal to the heart or the conscience, they utterly repudiate; and not only that, but they denounce, as worse than the “common seller,” all who do *not* repudiate such appeals. That requirement of the Great Lawgiver above alluded to is not only overlooked by them, but they distinctly, and in direct terms, abjure it. “Is not this great Babylon, which I have built?” is their lan-

guage; and in the fate of that ancient city they may read the doom which awaits their own proud structure.

Again, I have said above that to secure anything not already ours we must pay an equivalent. Now, when we desire to find a remedy against great social and moral evils, what is the equivalent? This precisely—a *retracing* of the steps which led us into these evils; and other equivalent than this, except by a miracle, there is none. The rule is the same for society, or for the State, as for the individual. Would a *man* escape from the effects of gluttony,—the equivalent he must pay is fasting. Is he suffering from the effects of over-indulgence in *any* direction,—it is in just the opposite direction he must retrace his steps, in order to reëstablish himself in a former state of wholeness. If any particular faculty of body or mind has been injured by over-exertion, rest to that faculty is evidently the specific cure; and if, on the contrary, it has become languid for want of needful exercise, that exercise must now furnish the remedy. Whatever be the error to be corrected, no short cut—nothing but an absolute *retracing* of the path—will lead back to the point of departure. So with States, or communities. Have they, by lack of mental cultivation, lapsed into mental imbecility,—they must go back, if at all, by the path they came. Have they become enervated by slothful ease, or debased by a lax morality,—the equivalent demanded of them, in order to elevate themselves from either of these conditions, is, that they reverse the process which sunk them thus low; and in proportion as the descent has been long continued, so toilsome and laborious must be the ascent. This is a sufficient statement of the rule, and I believe it is one of universal application. Let us, then, attempt to apply it to the case in hand.

Intemperance, in some form or other, is a great evil, the world over. The authors of the "Maine Law" imagine they have discovered in that measure a "short cut"—long looked for, indeed, and so has been the north-west passage—by which to escape from it. For some thousands of years the world had been progressing further and further along this evil way, on either side of which are to be seen thickly strewn the bones of the unhappy travellers. Away back, we know not how far in the remote past, lies the point of departure from that smiling territory—that fair domain, where



Temperance holds her mild and gentle sway, and where, under her benignant influences, peace and happiness abound. Disease is hardly known there, and when death comes his summons is for the waiting pilgrim of three-score years and ten. Neither bolt nor bar guards the door of the good man's dwelling against the prowling thief, or the midnight assassin. There is plenty there for all, and poverty threatens no man.

Now, what is a fair and reasonable equivalent for the world to pay, in order to be restored to this goodly country? A petty statutory enactment? A paltry law, which sends, now and then, a man or two to prison? Is he to be the scape-goat by whose efficacious atonement the rest of the world, who have more or less contributed *their* quota to this evil thing, are to escape? Truly, a wonderful equivalent would this be—a "short cut," with a vengeance, by which to get back to a point from which centuries of travel have removed us! With no such impunity as this does man transgress against great and universal laws. Upon no such insignificant terms as these do communities or States reëstablish themselves upon that lofty eminence from which they have been plunged, by a long-continued violation of nature's laws. *The extent of the transgression* is the measure of the equivalent that must be paid, in order to the restoration. Nature's language to every man, and to every community, is, "Have you violated any of my laws?—expect not to propitiate me by any sacrifice, or any offering, a whit inferior to the offence." Upon what other terms than these is her authority to be maintained? And see, for a moment, with what jealous watchfulness, with what certainty and regularity of movement, with what unswerving, unhesitating step, she ever proceeds in the execution of the sentence. Who ever yet escaped the appointed penalty? What man, woman or child, what State, what community, what principality, ever yet avoided making a full restitution for any offence committed against her; and which of them ever substituted *any other peace-offering* than that she has herself designated? What this is, we have seen already. "In whatever path you have sinned against me, in that same path retrace your steps." Whatever has contributed towards this great evil, intemperance, whether it be a

love of pleasure, the desire of gain, the gratification of inordinate appetites, or what not, these must contribute towards making up that full equivalent, short of which nothing can be accepted. We have sinned much. Let us be assured we must atone much. We are seeking a great thing; let us understand we must pay a great price. Nature has had great and long experience of our disobedience; and while she sees all those passions and appetites from which this disobedience sprung still unsubdued, she will require some other guarantee of our good behavior in the future than a mere wordy statute, however carefully prepared, however strictly guarded by severe penalties.

Viewed, then, by the light which history sheds upon this subject, examined by all the analogies of which it is capable, subjected to all the tests which an enlightened judgment and sound reason can furnish, and, finally, pondered by the rules a divine inspiration has given us, I ask is the measure we have been considering founded upon sound principles? Leaving out of view, for a moment, the incalculable benefit it *promises* to bestow upon us, and examining it upon its intrinsic merits, I ask whether there be even the most remote prospect for its final triumph and success.

And, while I am not unmindful of the heart-cheering, inspiring hopes it has awakened, of the immense amount of effort enlisted for its support, and of the great weight of character by which it has been sustained, I am constrained to give a negative answer to the above questions. Whether I look at the difficulties it must encounter in the way of its *working* capacities, or whether I examine the great general principles upon which the measure rests, I am alike unable to resist the conviction that it will, in the end, prove a broken reed, to pierce those who lean upon it. That it should leave this question of temperance where it found it is impossible. That, instead of bringing any advantage to the cause, it will greatly and seriously retard its onward progress, is my firm, unwavering belief. The cause has been snatched ruthlessly from the hands of those gentle charities, those kindly sympathies, whose office in a peculiar sense it was, by tender admonition, by affectionate counsel, by reasonable reproof, by well-chosen argument, by earnest remonstrance, by pungent exhortation, to provide a remedy for this evil.

And to whom — to what — has it been committed? Tossed into the arena of political strife and wrangling, its once fair features torn and bloody under the teeth of the venal pack, maimed, polluted, begrimed, despoiled of its comely proportions, its garments defiled, while itself lies low in the dust, it presents not a vestige of its former comeliness, not a poor remnant of its former strength.

But it will be said, in reply, "Those gentle charities, those kindly sympathies, you talk about so lovingly, proved unequal to the task they undertook." And what of that? Is that an objection to them? Do we pull down our churches, because all men do not become Christian worshippers? Do we cease to inculcate benevolence, because there are misers left in the world? Because an instrumentality is not omnipotent, does that prove it good for nothing? There are a few, at least, who doubt whether your own boasted scheme possess this attribute. Pray tell us when moral suasion proved equal to the extirpation of *any* vice. It has long sought to suppress evil speaking, backbiting, malicious slander. Has it *quite* succeeded, or does the tongue continue to be that "unruly member" it was long ago represented to be? Why not give us a "penal statute" against *that* evil, Messrs. "Maine Law" doctors; and, for that matter, against *all* evils of a similar nature? Why not make a clean sweep of it, and banish from the face of the earth that which so mars its beauty, and impairs its fruitfulness in works of love and gentle charity? Instead of wasting your time in the vain attempt to explain the *origin* of moral evil, why not terminate the conflict of ages by giving us the *cure* for this evil, and thus remove that stumbling-block out of the way? Truly, men have most needlessly vexed their brains about a very small matter, when they have discussed this question. Suppose the Almighty Governor of the universe *has* allowed the introduction, and until now the continued existence, of moral evil in the world. Small ground that, ye cavilling objectors, for which to arraign his justice, or his benevolence. Behold ye, the cure is in your own hands. It is a cure, too, most simple and efficacious. I pray you, do not reject it on account of its simplicity, but bethink you that, when once discovered, the greatest truths become plain and simple as this. The day of jubilee has come at last. The hour of universal emancipation is at hand. O,

immortal honor to the discoverer! O, glorious tidings to an enslaved and besotted world. A penal statute has become its deliverer; a legislative enactment has triumphed at last over its great enemy!

Now, in the objection which I have above supposed the "Maine Law" advocates to make to the old-fashioned manner of conducting the temperance reformation, we only see again the fundamental error under which they, and other similar schemers, rest. It is this: that a great moral evil, whose cancerous roots have for thousands of years penetrated the body politic through and through, and for hundreds of centuries have clasped it round and round, is susceptible of a radical and nearly instantaneous cure. An ancient philosopher once said, "Give me a lever long enough, and I will move the world." These modern philosophers promise to do the same thing without a lever. "Away," say they, "with your lazy-moving, clumsy contrivance, you call moral suasion. No slow coach like that for us. Stand aside, and we will show you a more rapid working."

And methinks, if angels ever look down with mingled pity and derision upon man, it is when they behold him making himself ready for such an encounter; first surveying for a single moment the stronghold that is to be taken,—its foundations deep as hell, its defiant walls built of adamant and high as heaven,—and then bringing up to the attack—what? A hot summons to surrender at discretion; a thundering proclamation of pains and penalties; a wordy bulletin, concocted in some political junto! Meanwhile the patient siege under which the enemy was fast being reduced has been driven from the field, because, forsooth, those adamantine walls have not been at once razed to the ground; but which, as did of old the walls of Jericho, it seems are to topple over incontinently by the breath of these newly-arrived trumpeters; or, if they do not, it shall not be for any want of loud blowing of their patent ram's horns. *Festina lente* is a good motto for any standard; and I cannot better conclude these most hastily-written pages than by commending its wise counsel to the consideration of these wide-striding, proud-stalking reformers, who would undo in a day what more than four thousand years have witnessed the doing of.





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